

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | | |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | CR. NO. 05-00161 HG |
| |) | |
| Plaintiff, |) | DECLARATION |
| |) | |
| vs. |) | |
| |) | |
| JAY PADAYAO, |) | |
| |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

DECLARATION

I, RICHARD S. KAWANA, hereby declare as follows:

1. I am the court-appointed attorney pursuant to the CJA for Defendant JAY PADAYAO, in the above-captioned cause, have reviewed the files and records of this case, discussed the matters herein with defendant and his family, and state the following:
2. Trial herein is scheduled for March 14, 2006;
3. Defendant is currently being held without bail pursuant to an order granting the government's motion to detain defendant without bail, filed on July 11, 2005;
4. On information and belief, defendant has been substance abuse free since his detention, has attended and completed a Living Free drug abuse and prevention class, as well as Bible study courses for which he has received 12 certificates of completion;
5. Defendant has further debriefed with the government and has indicated his intent to cooperate fully with the government;

6. On information and belief, Defendant's grandparents, Louise and Charles Apuna, are willing to assume third-party custodianship of Defendant, provide him with housing in a separate bedroom at their apartment in Pearl City as well as subsistence, and provide 24-hour supervision should he be released from custody;

7. On information and belief, Defendant's parents Charlene and John Padayao, who work full-time, are willing to provide secondary and backup third-party custodianship of Defendant when they are not working;

8. On information and belief, Defendant's uncle, Benjamin Apuna, will assist Defendant with assistance in seeking financial aid for full-time training to obtain a commercial truck driver's license (CDL) through the Oahu Worklinks and/or other similar programs; such training programs require drug testing and have a duration of approximately 8 weeks;

9. Declarant has been further advised by Benjamin Apuna, who is the General Sales Manager for Cutter Dodge, that upon completion of Defendant's training, Mr. Apuna will be able to obtain employment for Defendant through Mr. Apuna's business contacts, and Mr. Apuna will hire Defendant as a truck driver when Mr. Apuna's own concrete trucking company is up and running by June 2006;

10. Mr. Apuna has further advised declarant that Defendant would be paid as a commercial truck driver a minimum wage of \$25.00 per hour, and would not be a burden upon his family or the state;

11. Defendant is willing to comply with the terms of supervised release that may

be imposed upon him by the Court;

12. Because Defendant will be subject to 24-hour supervision, will be involved in full-time training after which he will be gainfully employed on a full-time basis, and because Defendant has already demonstrated his cooperation with the government, it is respectfully submitted that the plan for supervision, training, and gainful employment set forth above, along with the usual conditions of supervised release that may be imposed by the Court, will constitute a condition or combination of conditions of release that will reasonably assure the safety of the community and the Defendant's appearance for all court proceedings;

13. In addition, Defendant's pretrial release will allow Defendant to assist meaningfully in the investigation and preparation of a defense and/or sentencing should Defendant negotiate and enter a plea;

14. Wherefore, it is respectfully submitted that good cause exists to grant this motion.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: Honolulu, Hawaii, January 11, 2006.


RICHARD S. KAWANA